

PART 906—COLORADO

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AUTHORITY: 30 U.S.C. 1201 *et seq.***§ 906.1 Scope.**

This part contains all rules applicable only within Colorado that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

[45 FR 82211, Dec. 15, 1980]

§ 906.10 State regulatory program approval.

The Colorado State program as submitted on February 29, 1980, and amended and clarified on June 11, 1980, was conditionally approved, effective December 15, 1980. Beginning on that date, the Colorado Department of Natural Resources was deemed the regulatory authority in Colorado for sur-

face coal mining and reclamation operations and for coal exploration operations on non-Federal and non-Indian lands. Copies of the approved program are available for review at:

(a) Colorado Department of Natural Resources, Division of Minerals and Geology, Centennial Building, room 215, 1313 Sherman Street, Denver, CO 80203.

(b) Office of Surface Mining Reclamation and Enforcement, Western Regional Coordinating Center, Technical Library, 1999 Broadway, Suite 3320, Denver, Colorado 80202-5733.

[47 FR 56350, Dec. 16, 1982, as amended at 59 FR 17932, Apr. 15, 1994; 60 FR 54593, Oct. 25, 1995]

§ 906.15 Approval of Colorado regulatory program amendments.

The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

Original amendment submission date	Date of final publication	Citation/description
January 11, 1982, February 25, 1982.	December 16, 1982	2 CCR 407–2, 1.03.3(2), 1.03.4(2)(a); 2.02.2(3); 2.03.4(3); 2.05.3(6), .4(2)(c), .6, .6(3)(a), (c), .6(4), .6(6)(f); 2.06.12, .5(1), .6(2)(j), .8(3)(b), .8(5); 2.08.4(1)(f), .4(5)(b), (c); 3.02.1(5)(b); 3.05.1(1)(a), .1(7); 4.05.2(2), .3(5), (6), .4, .6(3)(c), .6(9); 4.06.5; 4.15.7(2)(d), .8(7), (8); 4.16.2(1); 4.21.2(1), (2); 5.03.6.
January 11, 1982, February 25, 1982, May 26, 1983, August 2, 1983.	May 1, 1984	CRS 34–33–108, 2 CCR 407–2, 1.13, 2.07.6(3), 4.05.2(7).
August 28, 1985	November 15, 1985	CCR 407–2, 5.03.2(1), 5.04.5(2)
August 28, 1984, March 12, 1985.	February 5, 1986	2 CCR 407–2, 1.04(95), (111); 1.14; 1.15; 2.02.1, .2(2), .(g), .3(1)(c), (e); 2.03.5(3), .9(1); 2.04.4, .8(1), .9(1), .10(4), .12(1), (2), (4), 2.05.3(4)(a), .5(1)(a); 2.07.5(1)(b); 2.10.1(1), (2), (3), .2(4), .3(1); 4.03; 4.06.1(2), .2(1), (2)(a), (4)(a), .4(1); 4.07.1(2), .3(1), (2); 4.08.3(2)(b), .4(1)(b), .4(10), .6(2); 4.15.1(2)(a), (d), .1(4), .2, .4, .5, .6(3), .8(2), (3), (4), (7), (8), .9; 4.16.2, .3; 4.18(3), (4); 4.21.1, .4(1); 4.30.1(2); 5.02.2, 5.03.2(2), 5.04.6(4).
January 23, 1986	May 30, 1986	2 CCR 407–2, 5.03.3(2)(b).
January 27, 1986, May 13, 1986.	July 1, 1986	2 CCR 407–2, 1.04; 6.01–4; blaster training program; blaster certification examination.
August 18, 1986	February 5, 1987	2 CCR 407–2, 2.02.2(2)(g); 2.04.12(1); 2.10.1(1); 4.06.1(2), .2(2)(a), .2(4)(a); 4.21.4(1); The Handbook Memorandum, "Alternative to Topsoil Stockpiles," which interprets 4.06.1(2).
November 25, 1986 ..	May 7, 1987	2 CCR 407–2, 4.15.7(2)(d).
May 26, 1987	March 31, 1989	2 CCR 407–2, 1.04(25), (57), (59), (71), (116), (120), (153); 1.05.1; 2.03.7(3); 2.04.9(1), .12; 2.05.4(2), .6(6)(f); 2.06.2(4), (5), (8), (9), (10), .6(1), (2); 2.07.6(2)(d), (e); 3.02.1(4), (5), (6), .2(4), .4(1), (2); 3.03.1(2), .2(5), (6); 3.04.2(5), (6); 4.06.2(2), (4), (5), (6); 4.15.1(1), .2, .7(2), (3), .8(2), (3), (4), (7), (9); 4.18; 4.20.1(3), .4(1), (3); 4.25.5(2), (3); 5.02.4(1); 5.03.3(5); 5.04.3(2), (3); 7.03(3)(f); 7.04(5); 7.06.2(1), (2), .3(1), (2), .5(2).
October 14, 1988	June 6, 1989	2 CCR 407–2, 2.05.6(4)(b), 2.07.6(2)(e), 2.10.3(1)(g).

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Original amendment submission date	Date of final publication	Citation/description
August 23, 1988	December 11, 1989	2 CCR 407-2, 1.04; 2.02.3, .5; 2.03, .3, .5; 2.04.4, .6, .7, .13; 2.05.3, .4, .6; 2.06.3, .7, .8; 2.07.3, .4, .5; 2.08.4, .5, .6; 2.09.2, .3, .5, .6, .8; 2.10.3; 3.02.4; 3.03.2; 4.05.1 through .6, .8, .9, .13, .16; 4.07.2; 4.08.1, .2, .4, .5, .6; 4.09, .1 through .4; 4.10, .1 through .4; 4.11, .1 through .5; 4.14.1, .2, .6; 4.17; 4.21.4; 4.24.2 through .5; 5.04.3; 7.08.
July 18, 1989	January 14, 1991 ...	2 CCR 407-2, 1.01(9); 1.04(64), (70a), (83a), (115), (153); 1.10.2(2), .4(1); 2.02.3(1)(c), .7(2)(a); 2.03.4, .5(3), (4); 2.04.7(1)(a); 2.05.3(4)(a), (b), .6(2)(c); 2.06.8(3)(c); 2.07.6(1)(b),(d), (2)(h), (10)(c), .7(4), (5); 4.05.3(1), (7), (8), (9), .4(1), (2)(b), .6(3)(c), (d), (e), (4), (5), (6), (11), (11i), (11j), (11k), (12), (13), (13b), .8(1), (2), .9(1)(a), (e), (f), (3), (3a), (3b), (4), (5), (12), (13), (13c); 4.08.1(3), .4(6)(c), .5(4)(c), (11); 4.09.1(10), .2(2)(a), (3); 4.11.5(3)(b), (d); 4.21.4(7), (7)(c); 4.23.2(7); 4.25.1(2); 5.02.2(4)(b); 5.03.2(1)(d), .5(1)(d), (4)(e); 5.04.7(2), (3), (4).
April 11, 1991	July 22, 1991	2 CCR 407-2, 3.03.3; 4.05.3(1)(c), (d), (e), .8(1); 4.14.1(1)(e); 5.02.2(8), (9); 5.04.(7)(1).
March 19, 1993	January 19, 1994 ...	2 CCR 407-2, 1.04(103a); 4.14.1(2)(a), (f), (g), (h), .2(1), (1a), (1b); 4.27.4, (1).
June 30, 1993	June 1, 1994	2 CCR 407-2, 1.04(111) through (111c); 2.05.3(3)(a), (c), (9)(a), (10)(a) through (e), .4(2); 4.03.1(1)(a), (b), (d), (e), (2)(b), (3)(c), (e), (6)(c), (7)(a), (b), .2(1)(a), (b), (e), (f), (2)(b), (3)(c), (e), (6)(a), (c), (7)(a), (b), .3(1)(a), (b), (2)(b), (3)(c), (6)(c), (7)(f); 4.08.4(10) through (b), .6(1); 4.09.3(2)(c); 4.11.4(3); 4.14.2(2), (c); 4.21.4(3)(b), (c), (d); 4.26.2(2), (b), (c); Policy statements in the 11/03/93 revised amendment, "Statement of Basis, Specific Statutory Authority and Purpose".
April 18, 1994	December 6, 1994 ..	2 CCR 407-2, 1.04(25), (116); 3.02.1(4), (7), .2(4)(b), (d), .4(1)(b), (c), (2)(b) through (e); 3.03.1(2), (3)(b), (d), (e), .2(1)(b), (2), (4)(c), (5)(a), (b); 3.06; 4.15.10(2), (3); 4.25.5(3)(a).
March 18, 1994	May 15, 1995	Memorandum of Understanding (MOU).
July 12, 1995	December 14, 1995	2 CCR 1.04(21), (80), (92), (111), (132), .05.1(1)(b); 2.03.3(4), .7(1), .05.3(3)(c)(iv), (8)(c), .6(2)(iii)(A), .06.6(2), .8(5), (c)(i)(A), (B), .07.2; 3.02.2(5), .3(c), .4(1)(b)(2), (c)(ix), (1)(d), (i); 3.03.1(2)(b); 4.08.6(1), .15.10(3), .20.3(2).
November 20, 1995 ..	February 21, 1996 ..	2CCR 5.03.6, (4)(e).
February 25, 1997	May 30, 1997	2 CCR 407-2, Rules 1.01(9); 1.04 (4), (12), (21), (41), (149); 1.13; 2.05.3 (3)(b)(i)(D), (3)(c)(ii); 2.06.2(4); 2.06.6(2)(a)(i); 2.08.5(2)(b)(ii); 2.08.6(6); 3.02.4(2)(d)(i); 3.05.5(1); 4.02.2(2); 4.03.1(1)(e); 4.05.6 (6)(a), (11)(h); 4.07.3(3)(f), (g); 4.30 .1(3), .2(3); 5.02.41 (1), (2); 5.03.3(5).
May 12, 2000	November 24, 2000	Rules 1.04 (31a), (71), (81a), (86a), (93a), (115) and (137a); 2.05.3(4), (4)(a)(iii), (iv), (v) and (vii), and (4)(b); 2.05.3(8)(a)(iii), (iv), (v) and (vi); 2.07.3(3)(b) and (c); 2.07.6(2)(c) and (3)(b)(iv); 4.05.2(1), (2), (3)(a), (4), (5) and (6); 4.05.6; 4.05.7; 4.05.9; 4.05.13(1)(a) through (c); 4.05.18(1)(a) through (c); 4.21.4(10) and 4.28.3(16).

[62 FR 9936, Mar. 5, 1997, as amended at 62 FR 33747, June 23, 1997; 65 FR 70486, Nov. 24, 2000]

§ 906.16 Required program amendments.

Pursuant to 30 CFR 732.17(f)(1), Colorado is required to submit to OSM by the specified date the following written, proposed program amendment, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Colorado's established administrative or legislative procedures.

(a)-(e) [Reserved]

(f) By September 30, 1994, Colorado shall submit an amendment to revise Rules 4.03.1(1)(e) and 4.03.2(1)(e) to clearly indicate that the variance from compliance with design criteria for roads may not be applied to Colorado's counterparts to the Federal regulations for all roads at 30 CFR 816.150 and

817.150, and primary roads at 30 CFR 816.151 (a), (c), (d), and (e), and 817.151 (a), (c), (d), and (e).

(g) [Reserved]

(h) By February 12, 1996, Colorado shall revise Rule 1.04(111), to delete the exemption for regulation of public roads under Colorado's program, or otherwise modify its program to qualify the exemption for public roads to consider the degree of effect that mining use has on the road.

[56 FR 1372, Jan. 14, 1991, as amended at 56 FR 33384, July 22, 1991; 59 FR 28260, June 1, 1994; 59 FR 62583, Dec. 6, 1994; 60 FR 64122, Dec. 14, 1995; 61 FR 26801, May 29, 1996; 65 FR 70487, Nov. 24, 2000]

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§ 906.20 Approval of Colorado abandoned mine land reclamation plan.

The Colorado Abandoned Mine Land Reclamation Plan, as submitted on February 16, 1982, and as subsequently revised, is approved effective June 11, 1982. Copies of the approved plan are available at:

(a) Colorado Department of Natural Resources, Division of Minerals and Geology, 1313 Sherman Street, Room 215, Denver, CO 80203.

(b) Office of Surface Mining Reclamation and Enforcement, Western Regional Coordinating Center, Technical

30 CFR Ch. VII (7–1–03 Edition)

Library, 1999 Broadway, Suite 3320, Denver, Colorado 80202–5733.

[60 FR 54593, Oct. 25, 1995]

§ 906.25 Approval of Colorado abandoned mine land reclamation plan amendments.

The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

Original amendment submission date	Date of final publication	Citation/description
April 29, 1985	January 9, 1986	Reclamation of noncoal sites.

[62 FR 9937, Mar. 5, 1997]

§ 906.30 State-Federal cooperative agreement.

The Governor of the State of Colorado, acting through the Mined Land Reclamation Division (MLRD), and the Secretary of the Department of the Interior, acting through the Assistant Secretary for Energy and Minerals, and the Office of Surface Mining (OSM), enter into a Cooperative Agreement (Agreement) to read as follows.

ARTICLE I: INTRODUCTION AND PURPOSE

1. This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (Act), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved by the Secretary under 30 U.S.C. 1253, to elect to enter into an Agreement for the regulation and control of surface coal mining operations on Federal lands.

This Agreement provides for State regulation, consistent with the Act, the Federal lands program (30 CFR part 745) and the Colorado State Program (Program) for surface coal mining and reclamation operations, on Federal lands.

2. The purpose of this Agreement is to (a) foster Federal-State cooperation in the regulation of surface coal mining; (b) eliminate intergovernmental overlap and duplication; and (c) provide uniform and effective application of the Program on all non-Indian

lands in Colorado, in accordance with the Act and the Program.

ARTICLE II: EFFECTIVE DATE

3. After being signed by the Secretary and the Governor, the Agreement shall be effective upon publication in the FEDERAL REGISTER as a final rule.

This Agreement shall remain in effect until terminated as provided in Article XI.

ARTICLE III: SCOPE

4. Under this Agreement, the laws, regulations, terms, and conditions of the Program conditionally approved effective December 15, 1980, 30 CFR part 906, or as hereinafter amended in accordance with 30 CFR 732.17, for the administration of the Act, are applicable to Federal lands within the State except as otherwise stated in this Agreement, the Act, 30 CFR 745.13, or other applicable laws.

Orders and decisions issued by MLRD in accordance with the State Program that are appealable, shall be appealed to the State reviewing authority. Orders and decisions issued by the Department that are appealable, shall be appealed to the Department of the Interior's Office of Hearings and Appeals.

ARTICLE IV: REQUIREMENTS FOR AGREEMENT

5. The Governor and the Secretary affirm that they will comply with all of the provisions of this Agreement and will continue to meet all the conditions and requirements specified in this Article.

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A. *Responsible Administrative Agency:* The MLRD shall be responsible for administering this Agreement on behalf of the Governor on Federal lands throughout the State. The Assistant Secretary for Energy and Minerals, or designee, shall administer this Agreement on behalf of the Secretary in accordance with the regulations in 30 CFR Chapter VII.

B. *Authority of State Agency:* The MLRD has and shall continue to have the authority under State law to carry out this Agreement.

C. *Funds:* Upon application by the MLRD and subject to appropriations, the Department shall provide the State with the funds to defray the costs associated with carrying out responsibilities under this Agreement as provided in section 705(c) of the Act and 30 CFR 735.16. If sufficient funds have not been appropriated to OSM, OSM and MLRD shall promptly meet to decide on appropriate measures that will insure that mining operations are regulated in accordance with the Program. If agreement cannot be reached, then either party may terminate the Agreement.

Funds provided to the State shall be adjusted in accordance with Office of Management and Budget Circular A-102, Attachment E.

D. *Reports and Records:* The MLRD shall make annual reports to the Director of OSM (Director) containing information with respect to compliance with the terms of this Agreement, pursuant to 30 CFR 745.12(c). The MLRD and the Director shall exchange, upon request, except where prohibited by Federal law, information developed under this Agreement. The Director shall provide the MLRD with a copy of any final evaluation report prepared concerning State administration and enforcement of this Agreement.

E. *Personnel:* The MLRD shall have the necessary personnel to fully implement this Agreement in accordance with the provisions of the Act and the approved Program. If sufficient funds have not been appropriated, OSM and MLRD shall promptly meet to decide on appropriate measures that will insure that mining operations are regulated in accordance with the Program.

F. *Equipment and Laboratories:* The MLRD shall assure itself access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses can be performed which are necessary to carry out the requirements of this Agreement.

G. *Permit Application Fees:* The amount of the fee accompanying an application for a permit shall be determined in accordance with section 34-33-110(1) Colorado Revised Statutes (CRS 1973), as amended. All permit fees shall be retained by the State and deposited with the State Treasurer in the General Fund. The Financial Status Report submitted pursuant to 30 CFR 735.26 shall in-

clude a report of the amount of fees collected during the prior State fiscal year.

ARTICLE V: DEFINITIONS

6. Terms and phrases used in this Agreement which are defined in the Act, 30 CFR parts 700, 701 and 740 and as defined in the Program shall be given the meaning set forth in said definitions. Where there is a conflict between the above referenced State and Federal definitions, the definitions used in the approved State Program will apply, except in the case of a term which defines the Secretary's continuing responsibilities under the Act and other laws.

ARTICLE VI: POLICIES AND PROCEDURES: REVIEW OF A PERMIT APPLICATION TO CONDUCT SURFACE COAL MINING AND RECLAMATION OPERATIONS OR AN APPLICATION FOR A PERMIT REVISION OR PERMIT RENEWAL

7. The MLRD and the Director shall require an operator on Federal lands to submit a permit application package or an application for a permit revision or renewal in an appropriate number of copies to the MLRD and OSM. Any documentation or information prepared by the operator for the sole purpose of complying with the 3-year requirement of section 7(c) of the Mineral Leasing Act (MLA) will be submitted directly to the Minerals Management Service (MMS). If such documentation is submitted as part of a permit application, a copy of the entire package will be forwarded to the MMS by OSM.

The permit application package or application for a permit revision or renewal shall be in the format required by the MLRD and include any supplemental information required by the Department. The permit application package or application for a permit revision or renewal shall satisfy the requirements of 30 CFR 741.12(b) and 30 CFR 741.13, and include the information required by, or necessary for, the MLRD and the Department to make a determination of compliance with:

(a) Section 34-33-101, *et seq.*, CRS 1973, as amended;

(b) Regulations of the Colorado Mined Land Reclamation Board for Coal Mining;

(c) Applicable terms and conditions of the Federal coal lease;

(d) Applicable requirements of the MMS's 30 CFR part 211 regulations pertaining to the Mineral Leasing Act requirements unless previously submitted to the MMS; and

(e) Applicable requirements of the approved Program and other Federal laws including, but not limited to, those identified in 30 CFR Chapter VII, Subchapter D, and Appendix A of this Agreement.

8. The MLRD shall assume primary responsibility pursuant to sections 510(a) and 523(c)

of the Act for the analysis, review, and approval of the permit application or application for a permit revision or renewal according to the standards of the approved Program. The Director shall assist the MLRD in the analysis of the permit application or application for a permit revision or renewal and coordinate with the other appropriate Federal agencies as specified by the Secretary according to the procedures set forth in Appendix B. The Department shall concurrently carry out its responsibilities which cannot be delegated to the State under the MLA, National Environmental Policy Act (NEPA), and other public laws (including, but not limited to, those in Appendix A) according to the procedures set forth in Appendix B so as, to the maximum extent possible, not to duplicate the responsibilities of the State as set forth in this Agreement and the Program. The Secretary shall consider the information submitted in the permit application package and, when appropriate, make the decisions required by the Act, MLA, NEPA and other public laws as described above.

9. As a matter of practice the Department will not independently initiate contacts with the applicant regarding permit application packages or applications for permit revisions or renewals. However, the Department reserves the right to act independently of the MLRD to carry out its statutory responsibilities under the Act, MLA, NEPA and other public laws provided, however, that the Department shall send copies of all relevant correspondence to the MLRD.

10. The MLRD shall maintain a file of all original correspondence with the applicant and any information received from the applicant which may have a bearing on decisions regarding the permit application or application for a permit revision or renewal.

11. OSM shall have access to MLRD files for mines on Federal lands. MLRD will provide OSM copies of information OSM deems necessary.

12. To the fullest extent allowed by State and Federal law, the Director and MLRD shall cooperate so that duplication will be eliminated in conducting the review and analysis of the permit application package or application for a permit revision or renewal.

ARTICLE VII: INSPECTIONS

13. The MLRD shall conduct inspections on Federal lands and prepare and file inspection reports in accordance with the Program.

14. The MLRD shall, subsequent to conducting any inspection, and on a timely basis, file with the Director a copy of each inspection report. Such report shall adequately describe (1) the general conditions of the lands under the permit; (2) the manner in which the operations are being conducted; and (3) whether the operator is complying

with applicable performance and reclamation requirements.

15. The MLRD will be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this Agreement, except as described hereinafter. Nothing in this Agreement shall prevent Federal inspections by authorized Federal or State agencies for purposes other than those covered by this Agreement. The Department may conduct any inspections necessary to comply with 30 CFR parts 842 and 743, as part 743 relates to obligations under laws other than the Act.

16. OSM shall ordinarily give the MLRD reasonable notice of its intent to conduct an inspection under 30 CFR 842.11 in order to provide State inspectors with an opportunity to join in the inspection. When OSM is responding to a citizen complaint of an imminent danger to the public health and safety or significant, imminent environmental harm to land, air or water resources, pursuant to 30 CFR 842.11(b)(1)(ii)(C), it will contact MLRD no less than 24 hours prior to the Federal inspection, if practicable, to facilitate a joint Federal/State inspection. All citizen complaints which do not involve an imminent danger shall be referred to MLRD for action. The Secretary reserves the right to conduct inspections without prior notice to MLRD to carry out his responsibilities under the Federal Act.

ARTICLE VIII: ENFORCEMENT

17. MLRD shall be the primary enforcement authority under the Act concerning compliance with the requirements of this Agreement and the Program. Enforcement authority given to the Secretary under other laws and orders including, but not limited to, those listed in Appendix A is reserved to the Secretary.

18. During any joint inspection by OSM and MLRD, MLRD shall have primary responsibility for enforcement procedures, including issuance of orders of cessation, notices of violation, and assessment of penalties. The MLRD shall consult OSM prior to issuance of any decision to suspend or revoke a permit.

19. During any inspection made solely by OSM or any joint inspection where the MLRD and OSM fail to agree regarding the propriety of any particular enforcement action, OSM may take any enforcement action necessary to comply with 30 CFR parts 843 and 845. Such enforcement action shall be based on the performance standards included in the regulations of the approved Program, and shall be taken using the procedures and penalty system contained in 30 CFR parts 843 and 845.

20. The MLRD and the Department shall promptly notify each other of all violations

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of applicable laws, regulations, orders, or approved mining permits subject to this Agreement and of all actions taken with respect to such violations.

21. Personnel of the State and representatives of the Department shall be mutually available to serve as witnesses in enforcement actions taken by either party.

22. This Agreement does not limit the Department's authority to enforce violations of Federal law which establish standards and requirements which are authorized by laws other than the Act.

ARTICLE IX: BONDS

23. For all surface coal mining operations on Federal lands, the MLRD and the Secretary shall require each operator to submit a single performance bond payable to the State and to the United States, if required by Federal regulations, to cover the operator's responsibilities under the Act and the Program. Such performance bond shall be conditioned upon compliance with all requirements of the Act, the Program and any other requirements imposed by the Department under the MLA, as amended. If the Agreement is terminated, all bonds will revert to being payable only to the United States to the extent that Federal lands are involved. Submission of a performance bond does not satisfy the requirements for a Federal lease bond required by 30 CFR Subpart 3473 or a lessee protection bond required in addition to a performance bond, in certain circumstances, by section 715 of the Act.

24. Prior to releasing the operator from an obligation under a performance bond required by the Program, the MLRD shall obtain the concurrence of OSM. the MLRD shall also advise OSM of annual adjustments to the performance bond, pursuant to the Program. Departmental concurrence shall include coordination with other Federal agencies having authority over the lands involved.

25. The operator's performance bond shall be subject to forfeiture with the consent of OSM, in accordance with the procedures and requirements of the Program.

ARTICLE X: DESIGNATING LAND AREAS UNSUITABLE FOR ALL OR CERTAIN TYPES OF SURFACE COAL MINING OPERATIONS

26. The MLRD and the Director shall cooperate with each other in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations. When either agency receives a petition that could impact adjacent Federal and non-Federal lands, respectively, the agency receiving the petition shall (1) notify the other of receipt and of the anticipated schedule for reaching a decision; and (2) request and fully consider data, information and views of the other.

The authority to designate State and private lands as unsuitable for mining is reserved to the State. The authority to designate Federal lands as unsuitable for mining is reserved to the Secretary or his designated representative.

ARTICLE XI: TERMINATION OF COOPERATIVE AGREEMENT

27. This Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15.

ARTICLE XII: REINSTATEMENT OF COOPERATIVE AGREEMENT

28. If this Agreement has been terminated in whole or in part it may be reinstated under the provisions of 30 CFR 745.16.

ARTICLE XIII: AMENDMENT OF COOPERATIVE AGREEMENT

29. This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

ARTICLE XIV: CHANGES IN STATE OR FEDERAL STANDARDS

30. The Department or the State may from time to time promulgate new or revised performance or reclamation requirements or enforcement and administration procedures. Each party shall, if it determines it to be necessary to keep this Agreement in force, change or revise its regulations and request necessary legislative action. Such changes shall be made under the procedures of 30 CFR part 732 for changes to the State Program and under the procedures of section 501 of the Act for changes to the Federal lands program.

31. The MLRD and the Department shall provide each other with copies of any changes to their respective laws, rules, regulations and standards pertaining to the enforcement and administration of this Agreement.

ARTICLE XV: CHANGES IN PERSONNEL AND ORGANIZATION

32. Each party to this Agreement shall notify the other, when necessary, of any changes in personnel, organization and funding or other changes that will affect the implementation of this Agreement to ensure coordination of responsibilities and facilitate cooperation.

ARTICLE XVI: RESERVATION OF RIGHTS

33. In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in

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this Agreement that the State or the Secretary may have under other laws or regulations, including but not limited to those listed in Appendix A.

Dated: September 27, 1982.

Richard D. Lamm,
Governor of Colorado.

Dated: September 20, 1982.

Donald Paul Hodel,
Acting Secretary of the Interior.

APPENDIX A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and implementing regulations.
2. The Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, and implementing regulations including 30 CFR part 211.
3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and implementing regulations including 40 CFR part 1500.
4. The Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and implementing regulations including 50 CFR part 402.
5. The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, and implementing regulations, including 36 CFR part 800.
6. The Clean Air Act, 42 U.S.C. 7401 *et seq.*, and implementing regulations.
7. The Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, and implementing regulations.
8. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.
9. The Reservoir Salvage Act of 1960, amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469 *et seq.*
10. Executive Order 1593 (May 13, 1971), Cultural Resource Inventories on Federal Lands.
11. Executive Order 11988 (May 24, 1977), for flood plain protection. Executive Order 11990 (May 24, 1977), for wetlands protection.
12. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351 *et seq.*, and implementing regulations.
13. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291 *et seq.*
14. The Constitution of the United States.
15. The Constitution of the State and State Law.

APPENDIX B—PROCEDURE FOR COOPERATIVE REVIEW OF PERMIT APPLICATION PACKAGES AND APPLICATIONS FOR PERMIT REVISIONS OR RENEWALS FOR FEDERAL COAL MINES IN COLORADO

I: Point of Contact and Coordination for the Review of Permit Applications and Applications for Permit Revisions or Renewals

A. The Colorado Mined Land Reclamation Division (MLRD) will:

1. Be the point of contact and coordinate communications with the applicant on issues concerned with the development, review and approval of the permit application package or application for permit revision or renewal.

2. Communicate with the applicant on issues of concern to the Office of Surface Mining (OSM) and promptly advise OSM of such issues and communications.

3. Provide OSM with a monthly report on the status of each permit application, or application for permit revision or renewal.

B. OSM will:

1. Be responsible for coordinating the review of the permit application package with all Federal agencies which have responsibilities related to approval of the package.

2. Be responsible for ensuring that any information OSM receives which has a bearing on decisions regarding the permit application package or application for a permit revision or renewal is sent promptly to MLRD.

C. Minerals Management Service (MMS) will:

1. Receive any documentation and information required by the 30 CFR part 211 regulations.

2. Be the point of contact with the applicant on issues concerned exclusively with the 30 CFR part 211 regulations.

3. Provide MLRD and OSM with copies of pertinent correspondence.

II: Receipt and Distribution of the Permit Application Package and Applications for Permit Revision or Renewal

A. MLRD will:

1. Receive from the applicant the appropriate number of copies of the permit application package, application for a permit revision or renewal, or the review correspondence from the applicant.

2. Identify an application manager responsible for coordinating the review and notify OSM.

3. Upon receipt of an application, MLRD will meet with OSM to discuss the application and agree upon a work plan and schedule.

B. OSM will:

1. Receive from the applicant the appropriate number of copies of the permit application package, application for a permit revision or renewal, or the review correspondence from the applicant.

2. Distribute copies of the permit application package and the identity of the MLRD application manager to other Federal agencies as required.

C. OSM, MMS and the Federal land management agency (FLMA) will: Each identify an application manager upon receipt of the application package. OSM will notify MLRD and all Federal agencies of the identity of the application managers.

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III: Determination of Completeness

A. MLRD will:

1. Determine the completeness of a permit application package or application for a permit revision or renewal in accordance with section 34-33-118(1) CRS 1973, as amended and as defined in rule 1.04(30) of the Regulations of the Colorado Mined Land Reclamation Board for Coal Mining promulgated pursuant to the Colorado Surface Coal Mining Reclamation Act.

2. Issue public notice of a complete application in accordance with the procedures of section 34-33-118(2) CRS 1973, as amended.

IV: Determination of Preliminary Findings of Substantive Adequacy

A. MLRD will:

1. Consult with MMS, FLMA, OSM, and other appropriate Federal agencies to review the filed application for preliminary findings of substantive adequacy (henceforth "preliminary findings") and to assess the need for additional data requirements in their respective areas of responsibility.

2. Arrange meetings and field examinations with the interested parties, as necessary, to determine the preliminary findings.

3. Advise the applicant of the preliminary findings upon the advice and consent of FLMA, MMS, OSM and other Federal agencies specified by the Secretary.

4. Transmit the letter(s) informing the applicant of the preliminary findings with copies to FLMA, MMS, OSM and other Federal agencies specified by the Secretary.

5. Furnish the Director with copies of correspondence with the applicant and all information received from the applicant as requested.

B. OSM will:

1. At the request of MLRD, assist as possible in the review of the permit application package or application for a permit revision or renewal. In any case where assistance has been agreed upon, furnish MLRD with preliminary findings within 45 calendar days of receipt of the request.

2. Work with other Federal agencies involved in the review to insure timely response and resolution of issues of particular concern regarding their statutory requirements.

3. Within 30 days from notification of completeness, initiate NEPA compliance procedures and procedures required by other laws which OSM has responsibility for and has not delegated to the State.

4. Participate, as arranged, in meetings and field examinations.

C. FLMA will:

1. Review the permit application package or application for permit revision or renewal for preliminary findings as to whether the applicant's proposed post-mining land use is consistent with FLMA's land use plan, and

as to the adequacy of measures to protect Federal resources not covered by the rights granted by the Federal coal lease.

2. Furnish OSM with preliminary findings and with any specific requirements for additional data, within 45 calendar days of FLMA's receipt of the permit application package or application for a permit revision or renewal.

3. Participate, as arranged, in meetings and field examinations.

D. MMS will:

1. Review the permit application package or application for a permit revision or renewal in regard to MLA requirements addressed in such application.

2. Furnish OSM with preliminary findings and with any specific requirements for additional data within 45 calendar days of MMS's receipt of the permit application package or application for a permit revision or renewal.

3. Participate, as arranged, in meetings and field examinations.

E. Other appropriate Federal agencies specified by the Secretary will:

1. Review the permit application package or application for a permit revision or renewal for preliminary findings in regard to their responsibilities under law.

2. Furnish OSM with preliminary findings within 45 calendar days of receipt of the application with specific requirements for additional data.

3. Participate, as arranged, in meetings and field examinations.

V: Findings of Technical Adequacy and NEPA Compliance

A. MLRD will:

1. Develop and coordinate the technical review of the permit application package or application for a permit revision or renewal. The review will include representatives of MLRD, MMS, FLMA, OSM and other appropriate Federal agencies specified by the Secretary.

2. Coordinate with OSM for the purpose of eliminating duplication, and provide to OSM a complete technical analysis pursuant to the approved Program that will serve as the technical base for any Environmental Analysis (EA) or Environmental Impact Statement (EIS) which may be necessary to determine NEPA compliance for each permit application package.

3. Coordinate, for the purpose of eliminating duplication, with MMS to conduct a technical analysis that will assist the MMS in making findings as may be necessary to determine compliance with the MLA.

4. Coordinate, for the purpose of eliminating duplication, with FLMA to conduct a technical analysis of issues regarding post-mining land use and the adequacy of measures to protect Federal resources not covered by the rights granted by the lease.

5. Coordinate, for the purposes of eliminating duplication, with other appropriate Federal agencies specified by the Secretary, to conduct a technical analysis of issues within their jurisdiction.

B. OSM will:

1. At the request of MLRD, assist as possible in the review of the application for technical adequacy in a timely manner as set forth by a schedule. Such schedule will be governed by the deadlines set forth in the Colorado Surface Coal Mining Reclamation Act and shall be developed by MLRD in cooperation with OSM.

2. Resolve conflicts and difficulties between other Federal agencies in a timely manner.

3. As soon as possible after receipt of the permit application package, determine the need for an EA or an EIS, pursuant to NEPA, with the assistance of FLMA, MMS, MLRD and other appropriate agencies, as arranged.

4. Publish notices of NEPA documents as required by Federal law and regulations.

5. Take the leadership role for the development of the EA and EIS including identification of areas where additional data is necessary.

6. Provide MLRD with the analysis and conclusions of the appropriate Federal agencies regarding those elements of the package which the Secretary cannot delegate to the State.

C. MMS will:

1. Review the permit application package or application for a permit revision or renewal for compliance with 30 CFR part 211.

2. Furnish MLRD, through OSM, findings on compliance in a timely manner as set forth by schedule. Such schedule will be governed by the statutory deadlines set forth in the Colorado Surface Coal Mining Reclamation Act and shall be developed by MLRD in cooperation with MMS.

3. Participate, as arranged, in meetings and field examinations.

D. FLMA will:

1. Determine whether the permit application or application for a permit revision or renewal provides for post-mining land use consistent with FLMA's land use plan and determine the adequacy of measures to protect Federal resources under FLMA's jurisdiction not covered by the rights granted by the Federal coal lease.

2. Furnish MLRD, through OSM, its determination on the technical adequacy in a timely manner as set forth by schedule. Such schedule will be governed by the statutory time limits set forth in the Colorado Surface Coal Mining Reclamation Act and shall be developed by MLRD in cooperation with FLMA.

3. Participate, as arranged, in meetings and field examinations.

E. Other appropriate Federal agencies specified by the Secretary will:

1. Review the permit application package or application for a permit revision or renewal in regard to their responsibilities under law.

2. Furnish MLRD, through OSM, findings on compliance with other applicable Federal laws and regulations in a timely manner as set forth by schedule. Such schedule will be governed by the statutory deadlines set forth in the Colorado Surface Coal Mining Reclamation Act and shall be developed in cooperation with MLRD.

3. Participate, as arranged, in meetings and field examinations.

VI: Preparation of the Decision Document and Transmittal

A. MLRD will:

1. Prepare a finding of compliance with the Program as approved by the Secretary and the regulations promulgated thereunder, which will consist of an analysis of critical issues raised during the course of the review and the resolution of those issues.

2. Assist OSM in the preparation of the decision document for the permit application package or application for a permit revision or renewal, unless the work plan and schedule agreed upon provides otherwise. MLRD will provide OSM with:

a. a brief but comprehensive discussion of the need for the proposal and alternatives to the proposal;

b. a finding of compliance prepared under A.1;

c. all other specific written findings required under section 34-33-114 CRS 1973, as amended.

3. Consider the comments of OSM, MMS, FLMA and other appropriate Federal agencies when assisting in the preparation of the decision document.

B. OSM will:

1. Prepare the approved NEPA compliance finding.

2. Prepare the decision document with the assistance of MLRD unless the work plan and schedule agreed upon provides otherwise. The decision document shall contain the following:

a. an analysis of the environmental impacts of the proposal and alternatives to the proposal prepared in compliance with NEPA, CEQ regulations and OSM's NEPA Compliance Handbook;

b. the determinations and recommendations of FLMA;

c. the memorandum of recommendation from the MMS to the Assistant Secretary for Energy and Minerals, with regard to MLA requirements;

d. the comments of other appropriate Federal agencies specified by the Secretary; and

e. the relevant information submitted by MLRD as specified by A.2. of this Article.

3. Transmit the decision document to the Secretary.

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C. FLMA will: Provide written concurrence on the decision document to OSM with regard to post-mining land use and the adequacy of measures to protect Federal resources not covered by rights granted by the Federal coal lease.

D. MMS will: Provide written concurrence on the decision document to OSM with regard to MMS responsibilities.

E. Other agencies will: Provide written concurrence on the decision document to OSM with regard to their responsibilities.

VII: Decision and Permit Issuance

A. The Secretary will:

1. Evaluate the analysis and conclusions as necessary to determine whether he concurs in the decision document insofar as it relates to his statutorily required decisions.

2. Inform the MLRD immediately of this decision. The reason for not approving shall be specified and recommendations for remedy shall be specified.

B. MLRD will:

1. Issue the permit, permit revision, or permit renewal for surface coal mining and reclamation operations after making a finding of compliance with the approved Program in the manner set forth in this Cooperative Agreement.

2. Advise the operator in the permit of the necessity of obtaining Secretarial approval, for those statutory requirements which have not been delegated to the State, prior to directly affecting Federal lands, and if necessary, prohibit the operator from directly affecting Federal lands under the permit, revised permit, or permit renewal until after the Secretary's approval has been received.

3. Reserve the right to modify the permit, permit revision, or permit renewal, when appropriate, in order to resolve conflicts between the permit requirements and the requirements of other laws, rules and regulations administered by the Secretary, so that all requirements placed upon an operation are consistent and uniform.

VIII: Resolution of Conflict

A. Every effort will be made to resolve errors, omissions and conflicts on data and data analysis at the State and field level.

B. Areas of disagreement between the State and the Department shall be referred to the Governor and the Secretary for resolution.

[47 FR 44217, Oct. 6, 1982]

PART 910—GEORGIA

Sec.

910.700 Georgia Federal program.

910.701 General.

910.702 Exemption for coal extraction incidental to the extraction of other minerals.

910.707 Exemption for coal extraction incidental to government-financed highway or other construction.

910.761 Areas designated unsuitable for surface coal mining by Act of Congress.

910.762 Criteria for designating areas as unsuitable for surface coal mining operations.

910.764 Process for designating areas unsuitable for surface coal mining operations.

910.772 Requirements for coal exploration.

910.773 Requirements for permits and permit processing.

910.774 Revision; renewal; and transfer, assignment, or sale of permit rights.

910.775 Administrative and judicial review of decisions.

910.777 General content requirements for permit applications.

910.778 Permit applications—minimum requirements for legal, financial, compliance, and related information.

910.779 Surface mining permit applications—minimum requirements for information on environmental resources.

910.780 Surface mining permit applications—minimum requirements for reclamation and operation plan.

910.783 Underground mining permit applications—minimum requirements for information on environmental resources.

910.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.

910.785 Requirements for permits for special categories of mining.

910.795 Small operator assistance.

910.800 General requirements for bonding of surface coal mining and reclamation operations.

910.815 Performance standards—coal exploration.

910.816 Performance standards—surface mining activities.

910.817 Performance standards—underground mining activities.

910.819 Special performance standards—auger mining.

910.823 Special performance standards—operations on prime farmland.

910.824 Special performance standards—mountaintop removal.

910.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

910.828 Special performance standards—in situ processing.

910.842 Federal inspections.

910.843 Federal enforcement.

910.845 Civil penalties.

910.846 Individual civil penalties.

910.955 Certification of blasters.

AUTHORITY: 30 U.S.C. 1201 *et seq.*